

BOARD OF APPEALS CASE NO. 4864

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BEFORE THE

APPLICANT: Roy Gullett

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ZONING HEARING EXAMINER

**REQUEST: Variance to construct a
screened patio within the required setbacks;
1510 Maple Avenue, Perryman**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 10/14/98 & 10/21/98

HEARING DATE: December 23, 1998

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Record: 10/16/98 & 10/23/98

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Roy Gullett, is requesting a variance to Section 267-26(C)(4) of the Harford County Code, to construct a screened patio within the required front yard setback.

The subject parcel is located at 1510 Maple Avenue in the Second Election District. The parcel is identified as Parcel No. 315, in Grid 2-D, on Tax Map 63. The parcel contains .213 acres, more or less, all of which is zoned R3.

Mr. Roy Gullett appeared and testified that the patio has been in place for approximately 20 years and that the road right-of-way is 30 feet wide, 10 feet of which is paved. The witness said the subject parcel is unique because the lot is 50 feet wide and 200 feet deep. Mr. Gullett went on to testify that he and his wife have medical problems and that denial of the requested variances would cause practical difficulty. He said he did not feel approval of the variance would be detrimental to the neighborhood because none of his neighbors have complained about the patio, nor did any of his neighbors appear at the hearing to testify in opposition to the request.

The Staff Report of the Department of Planning and Zoning did not make a recommendation, but provided:

“The screened patio is located in an area that will not impact traffic on Maple Avenue. The patio meets the side yard setback for an accessory structure (3 feet), 4 feet existing.

No protestants appeared in opposition to the Applicant's request.

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CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(4) of the Harford County Code for a screened patio within the required front yard setback of 50 feet from the center line of the road.

Section 267-19(C)(31) provides:

In case the right-of-way of the road on which the lot fronts is less than fifty (50) feet wide, the depth of the front yard shall be the setback requirement for the district plus twenty-five (25) feet and shall be measured from the center line of the road.

Section 267-26(C)(4) provides;

No accessory use or structure shall be established within the required front yard, except agricultural, signs, fences, walls or parking areas and projections or garages as specified in Section 267-23(c) , Exceptions and Modifications to minimum yard requirements.

The testimony of the Applicant is that the patio has been in existence for approximately 20 years and that both he and his wife are retired and have medical problems. The witness said it would be a hardship to remove the patio. He went on to testify that the right-of-way is 30 feet wide for Maple Avenue, 10 feet of which is paved. There was no evidence that approval of the requested variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code. The Applicant testified the subject property is unique because of its unusual shape and, further, that denial of the variance would cause an unnecessary hardship.

The Applicant also testified he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant in his testimony and, further, that approval of the variance will not be detrimental to adjacent properties or materially impair the purpose of the Code.

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Therefore, the requested variances are hereby recommended, subject to the following conditions:

1. The Applicant obtain all necessary permits for the patio and other structures on the property.
2. The workshop on the property shall no longer be used as a dwelling.

Date FEBRUARY 4, 1999

L. A. Hinderhofer
Zoning Hearing Examiner